

### DETAILED ACTION

This office action is responsive to Request for Continued Examination filed August 25, 2008. Applicant amended claims 31, 39, 42, 43 and 50. Claims 31-36, 38-47 and 49-52 are pending.

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 31-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering (US 6,820,277) further in view of Saylor et al. (US 6,707,889)

Regarding claims 31 and 42, Eldering teaches receiving advertisements from participating advertisers at an advertisement managing server, and storing the advertisements associated with the advertisers in a data repository (col. 11 lines 20-47); receiving bid data over the network from participating advertisers for playing of one or more of the audio advertisements; determining whether the bid data is satisfactory to one or more of the *plurality of participating services providers* (col. 8 line 63 to col. 9 line 10). *Eldering teaches the Ad Management System (AMS) of the present invention manages the sales and insertion of digital video advertisements in telecommunications system as a cable television, switched digital video, steaming video based environments; the AMS receives the ad descriptions and matches the ads to the advertising opportunities (see col. 2 lines 25-39). The avail opportunities module allows the content providers/producers of program streams to indicate various avails (advertisement*

*opportunities in a program stream) that are available in the programming stream (see col. 4 lines 14-26); and upon the bid data being determined satisfactory by at least one of the service providers, associating the bid data and identity of the accepting service provider with the appropriate advertisements in the data repository (see col. 9 lines 4-11); accessing rules for associating data about the user (profile) the service provider, the available advertisement and the received bids to maximize profile to the operator (see col. 2 lines 30-57, col. 7 lines 30-46, col. 8 lines 7-43). Eldering does not teach upon receiving notice of a call to one of the accepting telephone services, retrieving an appropriate ad accepted by that telephone service, and providing the retrieved advertisement to the telephone service to be played as audio to the caller, it is taught in Saylor. Saylor teaches generating revenue by charging advertisers for including their advertisement content with the Vpage and so users may access the system for free of charge. Saylor teaches the charge may be a flat fee for a period of time, a fee for each user for whom the VAd is played or otherwise (see col. 7 lines 8-51). Saylor also teaches tracking the "hit" frequency, revenue generated, demographics, advertisement presented, transactions performed and other information so the voice content provider may be better able to target his advertising (see col. 20 lines 21-33, col. 27 lines 37-60). Saylor also teaches the VNAPs may be connected to or more Vpage server systems which may host one or more Vpages and one or more VBook (see col. 12 lines 1-23). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to allow the advertisers of Saylor to bid for the placement of advertisement in any of the plurality of service providers, as in Eldering so the advertisers of Saylor can bid for the highest price they are willing to pay for the ad placement and one of plurality of service provides can select the advertiser with the highest bidder.*

Regarding claims 32 and 43, Eldering teaches determining that the bid data is not satisfactory to any one of the participating services, notifying the participating advertiser of the determination, receiving second bid data from the participating advertiser over the network, determining whether the second bid data is satisfactory, and repeating the determining cycle until the bid data is satisfactory, or until the advertiser stops bidding (see col. 8 line 63 to col. 9 line 8).

Regarding claims 33, 34, 44 and 45, Eldering teaches wherein the bid data includes a financial arrangement regarding payment for playing the audio advertisement, wherein the financial arrangement includes revenue sharing (see Eldering abstract, col. 2 lines 50-57).

Regarding claims 35-36 and 46 and 47, Eldering teaches wherein advertisements retrieved from the data repository are selected according to a user profile of a caller to which the advertisement may be played or displayed and according to balanced ad usage rules (see col. 2 lines 25-39, col. 5 lines 30-46, col. 6 lines 1-13, col. 8 lines 23-43, col. 11 line 39 to col. 12 line 10).

Regarding claims 38, 39, 49 and 50 Saylor teaches wherein one or more of the stored advertisements are audio files; wherein one or more of the stored advertisements are Voice XML files to be inserted into voice applications to be executed by one of the telephone services (see col. 7 line 35 to col. 8 line 40). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide voice or voice xml as in Saylor in the intended purpose of providing an audio advertisement in telephone system.

Regarding claims 40, 41, 51 and 52, Eldering teaches location identifiers to locate an audio file on a server in the network are stored in a data repository and the identifiers are used to retrieve the audio file storing a plurality of audio advertisements in a database; usage data is for their use in formulation of bid data (see col. 7 line 35, col. 8 line 54).

### ***Response to Arguments***

Applicant's arguments filed August 25, 2008 have been fully considered but they are not persuasive.

Applicant asserts that the claims have been herein clarified, by amendment, to recite that the *advertising management server does not accept or decline bids*. Applicant further indicates that applicant's invention provides bids to the plurality of participating telephony service providers and the providers accept or decline the bids in which the advertising management server of applicant's invention serves as an intermediary between a plurality of telephone service providers, receiving calls and providing services to callers and a plurality of advertisers.

The claim recites receiving *bid data over the network from participating advertisers **for playing of*** one or more of the audio advertisements ***to callers to at least one of a plurality of participating telephone service providers; determining whether the bid data is satisfactory to at least one of the participating telephone service providers; and upon the bid data being*** determined satisfactory by at least one of the service providers, associating the bid data and identity of the accepting telephone service provider with the appropriate advertisements in the data repository;

Based on applicant's argument that the invention provides bids to plurality of service providers, it is unclear if one of advertisers bids to place an ad at any of the plurality of service providers (not preference by the advertisers where the ads should be placed or played) and the bid is provided to all of the plurality of service providers and the ad is placed at the service provider accepts the bid. Examiner would like to point out that the claim recites the intended or field of use for the bid, i.e., the bid data is for playing the advertisement for a caller to at least one of a plurality of participating service provider. However the claim does not indicate that a bid to place an ad is provided to multiple service providers and in respond to the bid at least one of the multiple service providers accepts or declines the bid. Eldering also teaches that the *Ad Management System (AMS) of the present invention manages the sales and insertion of digital video advertisements in telecommunications system as a cable television, switched digital video, steaming video based environments, the AMS receives the ad descriptions and matches the ads to the advertising opportunities (see col. 2 lines 25-39)*, same as the claimed invention wherein the bid is for playing an ad to viewers of at least one plurality of service providers. *Saylor also teaches the VNAPs may be connected to or more Vpage server systems which may host one or more Vpages and one or more VBook (see col. 12 lines 1-23)*. Examiner also would like to point out that a third-party which serves as intermediary between advertisers and service provider is old and well known in the art of commerce. It would have been obvious to one of ordinary skill in the art at the time of the invention to use a host which provides service to advertisers and service providers to lower expenses since the host is used by more than one advertiser and one service provider.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (571) 272-6723. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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